

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF SMALL BUSINESS ADVOCATE

Suite 1102, Commerce Building
300 North Second Street
Harrisburg, Pennsylvania 17101

William R. Lloyd, Jr.
Small Business Advocate

(717) 783-2525
(717) 783-2831 (FAX)

May 28, 2010

HAND DELIVERED

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**Re: Pennsylvania Public Utility Commission v. Philadelphia Gas Works
Docket Nos. R-2010-2157062 and C-2010-2163437**

Dear Secretary Chiavetta:

I am delivering for filing today the original plus four copies of the Statement in Support of the Joint Petition for Settlement, on behalf of the Office of Small Business Advocate, in the above-captioned proceedings.

Two copies have been served today on all known parties in this proceeding. A Certificate of Service to that effect is enclosed.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Sharon E. Webb
WEL

Sharon E. Webb
Assistant Small Business Advocate
Attorney ID No. 73995

Enclosures

cc: Parties of Record

Robert D. Knecht

RECEIVED
2010 MAY 28 PM 3:21
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
v.	:	DOCKET NO. R-2010-2157062
	:	C-2010-2163437
PHILADELPHIA GAS WORKS	:	

**STATEMENT OF
THE OFFICE OF SMALL BUSINESS ADVOCATE
IN SUPPORT OF
THE JOINT PETITION FOR SETTLEMENT**

Introduction

The Small Business Advocate is authorized and directed to represent the interests of the small business consumers of utility services in the Commonwealth of Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50. Pursuant to that statutory authority, the Office of Small Business Advocate (“OSBA”) filed a complaint at Docket No. R-2010-2157062 on February 26, 2010, in response to the 66 Pa. C.S. § 1307(f) filing of Philadelphia Gas Works (“PGW” or the “Company”). The OSBA’s Complaint is Docketed at C-2010-2163437. The OSBA actively participated in the negotiations that led to the proposed settlement, and is a signatory to the Joint Petition for Settlement of Philadelphia Gas Works’ 2010 – 2011 GCR Proceeding (“*Joint Petition*”). The OSBA submits this statement in support of the *Joint Petition*.

RECEIVED
2010 MAY 28 PM 3:21
SECRETARY'S BUREAU

The Joint Petition

A. Planalytics

In the Company's original filing, PGW indicated it had engaged the services of Planalytics, a price analysis firm, to assist it with gas purchasing strategies.¹ The OSBA, through the testimony of its expert witness Mr. Robert D. Knecht, raised concerns about the Company's failure to clearly state its objective relative to the use of Planalytics.²

The *Joint Petition* states that PGW intends to use the service provided by Planalytics to "operate within the constraints of the gas supply plan as detailed in Appendix B [to the *Joint Petition*], and not as a replacement to it. Specifically, PGW will only adopt the recommendations made by Planalytics with respect to the timing of its gas price hedges if such recommendations are consistent with the requirements of Appendix B, Schedule 2."³

Additionally, as part of the *Joint Petition*, PGW has agreed to present an analysis of the service provided by Planalytics for calendar year 2010 in its next annual GCR filing on March 1, 2011.⁴ Parties will, at that time, have the opportunity to evaluate the analysis and continued use of the Planalytics service based on the information provided. Therefore, the *Joint Petition* resolves the OSBA's concerns about PGW's previously unstated objectives for the price analysis service.

¹ OSBA Statement No. 1 at 1, *citing* Joint Petition for Settlement of Philadelphia Gas Works' 2009-2010 GCR Proceeding, paragraph III.8, page 7, May 22, 2009.

² *Id.*

³ *Joint Petition* at 6.

⁴ *Id.*

B. DTI Reporting Error

On November 24, 2004, the Energy Information Administration (“EIA”) released a Weekly Gas Storage Report that led to a significant spike in natural gas prices, apparently as a result of a clerical error in the underlying data supplied by Dominion Transmission, Incorporated (“DTI”). In the 2005 Peoples Natural Gas Company Section 1307(f) proceeding, the Commission required that an NGDC “actively seek to recover from its suppliers, including its affiliates, the amounts paid for gas supplies that were in excess of reasonably anticipated prices as a result of the DTI reporting error.” *Peoples Natural Gas Company 1307(f) Proceeding*, Docket R-00050267 (Order entered September 30, 2005), at 16.

In PGW’s gas cost rate (“GCR”) proceeding of five years ago at Docket No. R-00050263, OSBA witness Mr. Knecht presented direct testimony that included an estimate of the cost impact of DTI error (“Event”) on PGW.⁵ That proceeding was resolved through a settlement, as were PGW’s subsequent four GCR proceedings.⁶ In each of the previous settlements, PGW has generally agreed that it would take the steps necessary to ensure that its GCR ratepayers would be represented in the class in a West Virginia legal proceeding (*Jacquet et al v. Dominion Transmission, Inc. et al*, Docket No. 2:05-cv-00548 (S.D. W.Va.)) relating to the Event if the case is given class action designation.⁷

The *Joint Petition* requires that PGW promptly intervene in the current class action lawsuit against DTI in West Virginia on behalf of PGW customers if *Jacquet* survives a motion

⁵ OSBA Statement No. 1 at 4.

⁶ *Id.*

⁷ *Id.*

to dismiss and is given a class action designation. The *Joint Petition* also requires that PGW will report on its efforts in next year's Section 1307(f) proceeding.⁸

C. Gas Purchasing Program

The Office of Consumer Advocate ("OCA"), through the testimony of its witness Mr. Richard LeLash, offered two proposals to modify PGW's current hedging program.⁹ In rebuttal, Mr. Knecht characterized the specific proposals as an "attempt to beat the market" rather than to reduce price volatility.¹⁰

The *Joint Petition* provides that PGW will follow its Gas Purchasing Program, attached to the *Joint Petition* as Appendix B. The Gas Purchasing Program is intended to reduce natural gas price volatility and does not incorporate either of the OCA's proposals.

⁸ Joint Petition at 5.

⁹ OCA Statement No. 1 at 24.

¹⁰ OSBA Statement No. 2 at 4, Non-Proprietary. The OSBA filed both Proprietary and Non-Proprietary versions of its rebuttal testimony. All references in this Statement in Support are to the Non-Proprietary version of the testimony.

Conclusion

For the reasons set forth in the *Joint Petition*, as well as the additional factors that are enumerated in this statement, the OSBA supports the proposed *Joint Petition* and respectfully requests that the ALJ and the Commission approve the *Joint Petition* in its entirety.

Respectfully submitted,



Sharon E. Webb
Assistant Small Business Advocate
Attorney ID No. 73995

For:

William R. Lloyd, Jr.
Small Business Advocate
Attorney ID No. 16452

Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101

Dated: May 28, 2010

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
v. : DOCKET NO. R-2010-2157062
Philadelphia Gas Works :

CERTIFICATE OF SERVICE

I certify that I am serving two copies of the Statement in Support of the Joint Petition for Settlement, on behalf of the Office of Small Business Advocate, by e-mail and first-class mail (unless otherwise noted) upon the persons addressed below:

Hon. Cynthia Fordham
Administrative Law Judge
Pa. Public Utility Commission
801 Market Street - #4063
Philadelphia, PA 19107
(215) 560-2105
(215) 560-3133 (fax)
cfordham@state.pa.us

Hon. Christopher Pell
Administrative Law Judge
Pa. Public Utility Commission
801 Market Street - #4063
Philadelphia, PA 19107
(215) 560-2105
(215) 560-3133 (fax)
cpell@state.pa.us

Gregory J. Stunder, Esquire
Philadelphia Gas Works
800 West Montgomery Avenue
Philadelphia, PA 19122
(215) 684-6878
(215) 684-6798 (fax)
greg.stunder@pgworks.com

Aron Beatty, Esquire
James A. Mullins, Esquire
Office of Consumer Advocate
555 Walnut Street - 5th Floor
Harrisburg, PA 17101-1923
(717) 783-5048
(717) 783-7152 (fax)
abeatty@paoca.org
jmullins@paoca.org
(E-mail and Hand Delivery)

Daniel Clearfield, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
(717) 237-6000
(717) 237-6019 (fax)
dclearfield@eckertseamans.com

Johnnie E. Simms, Esquire
Adeolu Bakare, Esquire
Office of Trial Staff
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105
(717) 787-1976
(717) 772-2677 (fax)
josimms@state.pa.us
abakare@state.pa.us
(E-mail and Hand Delivery)

Richard LeLash
18 Seventy Acre Road
Redding, CT 06896
(First-class Mail Only)

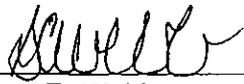
RECEIVED
2010 MAY 28 PM 3:21
SECRETARY'S BUREAU
PA PUC

Charis Mincavage, Esquire
Barry A. Naum, Esquire
Carl J. Zwick, Esquire
McNees Wallace & Nurick
P. O. Box 1166
Harrisburg, PA 17108-1166
(717) 232-8000
(717) 237-5300 (fax)
cmincavage@mwn.com
bnaum@mwn.com
czwick@mwn.com

Astrid K. Nedela
8211 Rockwell Avenue - #2
Philadelphia, PA 19111-1827
(First-class Mail Only)

Vincent Gariano
409 Audubon Terrace
Philadelphia, PA 19116
(First-class Mail Only)

Date: May 28, 2010



Sharon E. Webb
Assistant Small Business Advocate
Attorney ID No. 73995